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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,387	10/22/2004	Stefan Lindberg	1501-1258	9021

466 7590 01/25/2006

YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER

WACHSMAN, HAL D

ART UNIT PAPER NUMBER

2857

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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EXAMINER
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ART UNIT	PAPER
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01212006

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Hal D Wachsman  
Primary Examiner  
Art Unit: 2857

<b>Office Action Summary</b>	<b>Application No.</b> 10/500,387	<b>Applicant(s)</b> LINDBERG ET AL.	
	<b>Examiner</b> Hal D. Wachsman	<b>Art Unit</b> 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16 and 18 is/are rejected.
- 7) ☒ Claim(s) 14, 15, 17 and 19-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6-28-04</u> . | 6) <input type="checkbox"/> Other: _____  |

1. The drawings are objected to because Figures 1, 2, 10-12 and 15 need labeling (i.e. in words) so as to facilitate an understanding of the invention from the drawings. Also on sheet 13/15 which contains Figure 14B, the various figure number labelings at the bottom of the drawing are faded. Appropriate correction is required.
2. The declaration is objected to because the "PCT FILED APPLICATION ENTERING NATIONAL STATE" section has not been completed. Appropriate correction is required.
3. The specification is objected to because it contains legal phraseology in various locations such as for example on page 4, lines 20 and 22, where it states "said logger". In addition, there is no statement on page 1 of the specification with respect to the claim for priority. Appropriate correction is required.
4. The Brief Description of the Drawings is objected to because the description for Figure 7 indicates that it shows a physical embodiment of an apparatus but which embodiment of the apparatus is being referred to here. The Brief also refers to Figure 14 however there is not a Figure 14 but there are actually Figures 14A, 14B and 14C. Appropriate correction is required.
5. The listing of references in the specification (see pages 27, 28 of the specification) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the

references have been cited by the examiner on form PTO-892, they have not been considered.

6. Page 27, lines 15-16, indicate that the preferred embodiments of the apparatus does not have any function for establishing whether steam leaks or not from a steam trap. However, it is not clear why here the invention is being described by what it is not as opposed to what the invention is. Appropriate explanation/correction is required.

7. Page 28 of the specification refers to Figure 5 however there are actually Figures 5A-5D. Pages 36 and 47 of the specification refer to Figure 14 however there are actually Figures 14A-14C. Also page 44, line 1, of the specification cites "...capable of..." which implies that the invention may or may not do what is being described here. Page 47, line 31, cites "Figur 15" which it appears should be "Figure 15". Page 49, line 21, cites "...add the use allowance i apparatus.." however was this intended to be "...add the use allowance in apparatus...". Appropriate correction is required.

8. Claims 1 and 13 are objected to under 37 C.F.R. 1.75(i) because each element of these claims are not separated by a line indentation. Appropriate correction is required.

9. Claims 1-27 are objected to under 37 C.F.R. 1.75(a) are objected to under 37 C.F.R. 1.75(a) for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. Claim 1, line 7, cites "F 1" however was this intended to be "F1" ? This same type of problem also occurs in claim 1, line 9, claim 13, line 10. Claim 1, lines 10-11, cite "...use of a first condition monitoring function a first rate.." in which it appears that the word "at" is missing between the words "function" and

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"a". This same type of problem also occurs in claim 25, line 5. Claim 1, line 11, cites "...to register use a second" however it appears that the word "of" is missing after the word "use". This same type of problem also occurs in claim 25, line 6. Claim 1, line 11, cites "a first rate" but a rate of what exactly is being referred to here ? This same type of problem also occurs in the last line of claim 1 and claim 13, lines 13 and 15. Claim 13, line 5, cites "said shaft" however the antecedent basis is "rotating shaft". Claim 13, line 11, cites "current value of said registered use..." but what type of value exactly is being referred to here ? Claim 13, line 12, cites "a reference value" however exactly what type of reference value is being referred to here ? Claim 15, lines 1-2, cite "wherein aid second rate" which it appears should be "wherein said second rate". Claim 16 depends from claim 1 and contains the exact same feature as claim 4 which also depends from claim 1, so it is not clear why *claim 16 is present as a duplicate claim of claim 4*. The last 2 lines of claim 25 cite "...said fourth rate deviating from said third rate" however deviate in what way exactly ? The examiner asks the applicant to better claim the limitations cited above. While the examiner understands the intentions of the applicant he feels confusion could be drawn from the limitations cited above. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 6 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 6 and 18 contain Markush groups (see MPEP 2173.05(h)) which are improper because the members of the group are not disclosed in the specification to possess at least one property in common which is mainly responsible for their function in the claimed relationship in which it is clear from their very nature or from the prior art that all of them possess this property. In addition, because the list of potential alternatives in these claims can vary with ambiguity arising (see section III of MPEP 2173.05(h)) there is confusion then with respect to what exactly constitutes the scope of the claim as there can be a large variety of combinations of functions selected from the group in each of these claims. There is also ambiguity in these claims because it states "two or three or more functions" and thus it is not clear if it is two or more functions or three or more functions being referred to in these claims.

### ***Double Patenting***

12. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

13. Claim 13 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1/21 (the combination of the features of claims 1 and 21) of copending Application No. 10/893,292. Although the conflicting claims are not identical, they are not patentably distinct from each other because the referral to "a second reference value" in claim 21 of U.S. application serial no. 10/893,292 is "a reference value" just as in claim 13 of the instant application because in both claims 1 and 21 of U.S. application serial no. 10/893,292 there is no citation of a first reference value.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and



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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claims 1-4, 6, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronsson (WO 98/01831) in view of Yoshimura (6,516,304).

As per claim 1, Aronsson (see at least abstract) discloses "at least one input for receiving measurement data...for surveying a measuring point of the machine". Aronsson (page 4, lines 19-28) discloses "data processing means for processing condition data dependent on said measurement data". Aronsson (Abstract, page 4 lines 21-25, page 6 lines 6-10, 20-26) discloses "said data processing means comprising ..performing a plurality of condition monitoring functions...and a logger for registering use of at least two of said condition monitoring functions....". With respect to "wherein said logger is adapted to register use of a first condition monitoring function a first rate; and said logger is adapted to register use a second conditioning monitoring function at a second rate" the registration of the two condition monitoring functions have already been addressed above however it appears though that Aronsson does not clearly

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disclose two functions being at different rates (i.e. a first and a second rate). However, Yoshimura (col. 3 lines 9, 10, 44, 45, col. 9 lines 45-52) teaches this excepted feature. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Yoshimura to the invention of Aronsson as specified above because as taught by Yoshimura (col. 2 lines 59-65) in the arrangement of Yoshimura the charge for each software component is cumulatively increased in accordance with a state in which the software is run, and charging is managed for each software component of the software in the apparatus and thus as a result, it is possible that a user pays charges in accordance with a matter as to which devices are actually used.

As per claim 2, Yoshimura (Abstract, col. 6 lines 47-59) teaches the separate charging information of each software component and thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made that different components or functions may have different rates and thus different costs per unit of usage. In addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Yoshimura to the invention of Aronsson as specified above because as taught by Yoshimura (col. 2 lines 59-65) in the arrangement of Yoshimura the charge for each software component is cumulatively increased in accordance with a state in which the software is run, and charging is managed for each software component of the software in the apparatus and thus as a result, it is possible that a user pays charges in accordance with a matter as to which devices are actually used.

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As per claim 3, Yoshimura (Abstract, col. 6 lines 47-59) teaches the separate charging information of each software component and thus it would have been obvious to a person of ordinary skill in the art at the time the invention was made that different components or functions may have different rates and thus different costs per unit of usage. In addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Yoshimura to the invention of Aronsson as specified above because as taught by Yoshimura (col. 2 lines 59-65) in the arrangement of Yoshimura the charge for each software component is cumulatively increased in accordance with a state in which the software is run, and charging is managed for each software component of the software in the apparatus and thus as a result, it is possible that a user pays charges in accordance with a matter as to which devices are actually used.

As per claims 4 and 16, Yoshimura (see at least abstract) teaches the feature of each of these claims. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Yoshimura to the invention of Aronsson as specified above because as taught by Yoshimura (col. 2 lines 59-65) in the arrangement of Yoshimura the charge for each software component is cumulatively increased in accordance with a state in which the software is run, and charging is managed for each software component of the software in the apparatus and thus as a result, it is possible that a user pays charges in accordance with a matter as to which devices are actually used.

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As per claim 6, Aronsson (page 1, lines 15-18, 26-29, page 2 lines 9-11) discloses the vibration analysis, temperature analysis and shock pulse measuring condition monitoring functions.

As per claim 11, Yoshimura (col. 7 lines 33-38, col. 10 lines 2-4, col. 18 lines 13-26) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Yoshimura to the invention of Aronsson as specified above because as taught by Yoshimura (col. 2 lines 59-65) in the arrangement of Yoshimura the charge for each software component is cumulatively increased in accordance with a state in which the software is run, and charging is managed for each software component of the software in the apparatus and thus as a result, it is possible that a user pays charges in accordance with a matter as to which devices are actually used.

As per claim 12, Yoshimura (col. 7 lines 33-38, col. 10 lines 2-4, col. 18 lines 13-26) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Yoshimura to the invention of Aronsson as specified above because as taught by Yoshimura (col. 2 lines 59-65) in the arrangement of Yoshimura the charge for each software component is cumulatively increased in accordance with a state in which the software is run, and charging is managed for each software component of the software in the apparatus and thus as a result, it is possible that a user pays charges in accordance with a matter as to which devices are actually used.

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16. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aronsson (WO 98/01831) in view of Yoshimura (6,516,304) as applied to claim 1 above, and further in view of Nguyen (EP 0 905 601 A1).

As per claim 5, Nguyen (paragraph 0013) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Nguyen to the inventions of Aronsson and Yoshimura as specified above because as taught by Nguyen (paragraph 0014) it would enable then that when the contracted term permitted for the user to use the measuring apparatus expires, that fact could then be transmitted to the user or the leased measuring apparatus can be made inoperative.

17. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronsson (WO 98/01831) in view of Yoshimura (6,516,304) as applied to claim 1 above, and further in view of Hogle (WO 01/14835 A1).

As per claim 7, Hogle (page 2, lines 15-19) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Hogle to the inventions of Aronsson and Yoshimura as specified above because Aronsson (Abstract, page 3, lines 21-23) discloses the evaluating of the condition of a machine which has a rotatable shaft and thus one condition that can be monitored with respect to this would be imbalance.

As per claim 8, Hogle (page 2, lines 15-19) teaches imbalance detection and based upon that it would have been obvious to a person of ordinary skill in the art at the time the invention was made that balancing would be needed if an imbalance

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condition is detected. In addition, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Hogel to the inventions of Aronsson and Yoshimura as specified above because Aronsson (Abstract, page 3, lines 21-23) discloses the evaluating of the condition of a machine which has a rotatable shaft and thus one condition that can be monitored with respect to this would be imbalance.

18. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aronsson (WO 98/01831) in view of Yoshimura (6,516,304) as applied to claim 1 above, and further in view of Malak (4,518,855).

As per claim 9, Malak (see at least abstract) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Malak to the inventions of Aronsson and Yoshimura as specified above because Aronsson (Abstract, page 3, lines 21-23) discloses the evaluating of the condition of a machine which has a rotatable shaft and thus there would have been a need to check the rotatable shaft for misalignment.

As per claim 10, Malak (see at least abstract) teaches the feature of this claim. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to apply the techniques of Malak to the inventions of Aronsson and Yoshimura as specified above because Aronsson (Abstract, page 3, lines 21-23) discloses the evaluating of the condition of a machine which has a rotatable shaft and thus there would have been a need to properly align the rotatable shaft if a misalignment was detected.

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19. Claims 14, 15, 17 and 19-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and subject to the appropriate correction of the 37 C.F.R. 1.75(a) objections noted in paragraph 9 above.


20. The following references are cited as being art of general interest: Yacoob (6,557,752) which discloses the use of a smart card for recording maintenance transactions, Savolainen (6,892,063) which discloses the comparing of monitored conditions against a standard value used in the calculating of a charge, Carolsfeld et al. (US 2003/0110380 A1) which disclose the correspondence between a key code and a function, Banerjee et al. (US 2002/0147693 A1) which disclose service and equipment usage accounting, McMahon (5,956,658) which discloses a portable data collector for collecting maintenance data, Aronsson (6,499,349) which discloses a condition analyzer, Aronsson et al. (6,725,723) which disclose a device for mounting on a machine and Aronsson et al. (EP 1 124 204 A2) which disclose a device for mounting on a machine.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D. Wachsman whose telephone number is 571-272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Hal D Wachsman  
Primary Examiner  
Art Unit 2857

HW  
January 22, 2006